

Fergus County Argus.

Vol. XIII. No. 36.

LEWISTOWN, FERGUS COUNTY, MONT., THURSDAY, APRIL 2, 1896.

Price 10 Cents.

REPUBLICAN IN POLITICS, AND DEVOTED TO THE MINERAL, AGRICULTURAL, STOCK AND WOOL INTERESTS OF THE GREAT JUDITH COUNTRY.

Fergus County Argus.

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County Commissioners meet first Monday in March, June, September and December.
The District Court for Fergus county sets as follows: Monday, March 25th, Monday, June 1st, Monday, August 24th and Monday, November 9th, 1896.

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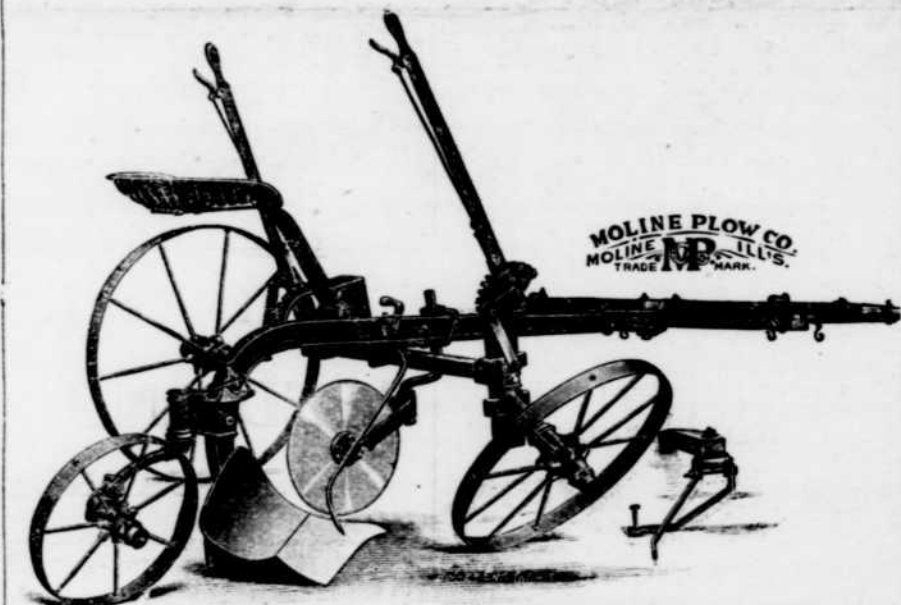
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TRAIN NO. 1, PACIFIC EXPRESS.
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LEWISTOWN, MONTANA.

CHISOLM "NOT GUILTY"

Acquitted After Seven Days Trial.
Jury Out Twelve Hours.

The Defense Greatly Strengthened Since the First Trial. Report of Other Court Proceedings.

The trial of Alexander Chisolm for the murder of Robert Somers engaged the exclusive attention of the district court from Tuesday morning of last week until late Tuesday evening, lasting seven days. As the great mass of the evidence was not materially different from that offered at the first trial and exhaustively reported in these columns last November, we shall give the testimony little attention except where it developed new facts or threw more light upon the cause of death of the deceased.

The only new testimony of consequence which the state offered was that of T. L. Burke, who stated that on the morning of the death of Somers he met Chisolm and the latter, in the course of conversation, said that "Bob had sold the mine and if he don't settle with me I'll kill him." The cross examination consisted of the reading of testimony given by the same witness at the first trial and attempting to break the effect of the latter statements, but without apparent result. Several minor points in the state's case were strengthened and but for the utter breaking down of the expert testimony given by Dr. Monahan, the state had presented a much stronger case. Dr. Monahan testified materially as before, but it was evident as soon as Attorney Hutton began the cross examination that he was prepared to assail the weak points and destroy the effect of testimony, which at the first trial was the hardest defense had to combat. With Dr. Lindsey at his side the attorney quoted authorities which contradicted the witness and asked questions which entangled the witness so that the latter was compelled to withdraw several statements and the damaging effect of the evidence was completely parried.

The defense offered considerable new testimony strengthening their case at every point and evincing much study and labor on the part of the attorneys, especially Mr. Hutton. The testimony of Drs. Lindsey and Stone contradicted Drs. Monahan and Long and substantiated the theory of the defense. James Fisher, Nichols, and Thomas Meryfield, who were members of the coroner's jury and had examined the mine at the time of the inquest, testified that they had examined the mine on the 27th inst. and that the shaft had been tampered with since the former date. That at the inquest they had noted a blast hole about six inches deep in the ledge of rock at the foot of the shaft, which hole appeared as though a premature discharge had issued therefrom and that the collar of the hole had been chipped off by that discharge. That at their last examination they noted that where this blast hole was situated a slab of rock, fifteen inches long, six inches wide and five inches deep, had been removed and at that time no such hole was to be found. They also testified that the blood which they had seen on the face of the shaft at the time of the inquest, had been scraped off. The two former of these witnesses were subpoenaed for the first trial, but, being on the Missouri river, did not arrive until too late to testify. The cross examination failed to shake the testimony although witnesses for the prosecution contradicted the statement in toto. The visit of the jury to the mine, though moved by the prosecution, is said to have helped the defense.

Tuesday morning the taking of testimony was continued, the defense

offering corroborative evidence and the state calling a few experienced miners to testify, in rebuttal, as to the effect of different kinds of powder when discharged under certain conditions.

The arguments began about 3 p. m., Mr. Cort opening for the defense and Mr. Von Tobel for the prosecution. The addresses were in both instances stronger than those delivered by the same gentlemen at the former trial and treated the testimony exhaustively from the different standpoints. Mr. Cort made a strong appeal to the sentiment of the juryman, the force of Mr. Von Tobel's was evidently worrisome to the attorneys for the defense as they interrupted the speaker frequently until reprimanded by the court. At the evening session Mr. Hutton closed for the prisoner and County Attorney Smith for the state, the court room being crowded to its utmost capacity. The former did not indulge in oratory but made a distinctively argumentative address, dwelling particularly on the breaking down of the medical witness, Dr. Monahan, and attacking the reliability of witnesses for the state, T. L. Burke coming in for a most severe roasting. Mr. Smith made an excellent address, much more forcible than at the first trial and undoubtedly influenced the jury to a considerable extent. The long chain of strong circumstantial evidence was linked and the good character of the state's witnesses impressed upon the jury. A long review of the testimony and an appeal for justice on behalf of the silent witness concluded the case.

The charge was much the same as at the former trial and gave every possible advantage to the prisoner which law and justice could allow. The jury was instructed that they could find the prisoner guilty of murder in the first or second degree, the following being the definition of the two degrees as laid down by the court: "If all four of the ingredients of willfulness, premeditation, deliberation and malice aforethought exist, it is murder in the first degree; but if any of them be wanting except malice aforethought, it is murder in the second degree."

The jury retired at 9:15 p. m. and after an all night session brought in a verdict of "not guilty" at 9:30 a. m. Wednesday. The several ballots resulted as follows:

Ballot Guilty Not Guilty Blank